



ANTIENE RAIL SPUR

LIFE EXTENSION MODIFICATION **MODIFICATION REPORT**



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Appendix B	Maxwell Project Air Quality and Greenhouse Gas Assessment
Appendix C	Maxwell Project Road Transport Assessment
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1 INTRODUCTION

This document is a Modification Report for a proposed modification to the Antiene Rail Spur Development Consent DA 106-04-00. The Antiene Rail Spur services the Maxwell Underground Mine Project (the Maxwell Project) and the existing Mt Arthur Mine and connects to the Main Northern Railway Line.

The Maxwell Project is an approved underground coal mining operation owned by Maxwell Ventures (Management) Pty Ltd, a wholly owned subsidiary of Malabar Resources Limited (Malabar).

The Mt Arthur Mine is an existing open cut coal mining operation owned by Hunter Valley Energy Coal Pty Ltd (HVEC), a wholly owned subsidiary of BHP.

This Modification is sought under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 APPLICANT'S DETAILS

Maxwell Ventures (Management) Pty Ltd (ACN 002 028 257), is the proponent for the Modification.

The registered address for Maxwell Ventures (Management) Pty Ltd is:

Maxwell Ventures (Management) Pty Ltd
Level 26, 259 George Street
Sydney NSW 2000

The Malabar website is:

<https://malabarresources.com.au/>

Primary access to the Maxwell Project and the Antiene Rail Spur is via Thomas Mitchell Drive, Muswellbrook NSW, 2333.

1.2 BACKGROUND

The Antiene Rail Spur and the Maxwell Project are located in the Upper Hunter Valley of New South Wales (NSW), south-southwest of Muswellbrook (Figure 1).

The Antiene Rail Spur is located partially within and to the north of the Maxwell Project (Figures 2 and 3). The Antiene Rail Spur was originally commissioned in 1983, with the extension to Mt Arthur Mine commissioned in late 2001.

The Antiene Rail Spur has been servicing the former Drayton Mine since 1983, the Mt Arthur Mine since 2001 and the Maxwell Project since 2023. The Maxwell Project is approved to transport product coal via the Antiene Rail Spur.

The Antiene Rail Spur is used to transport coal from these operations via the Main Northern Railway Line to the Port of Newcastle for export.

The use of the Antiene Rail Spur was governed by two separate planning approvals, granted individually to Drayton Mine and Mt Arthur Mine on 2 November 2000. These were Development Consents DA 106-04-00 and DA 105-04-00, respectively. In 2010, BHP consolidated a number of their existing planning approvals; subsequently, Development Consent DA 105-04-00 was surrendered and the relevant conditions were incorporated into Project Approval 09_0062.

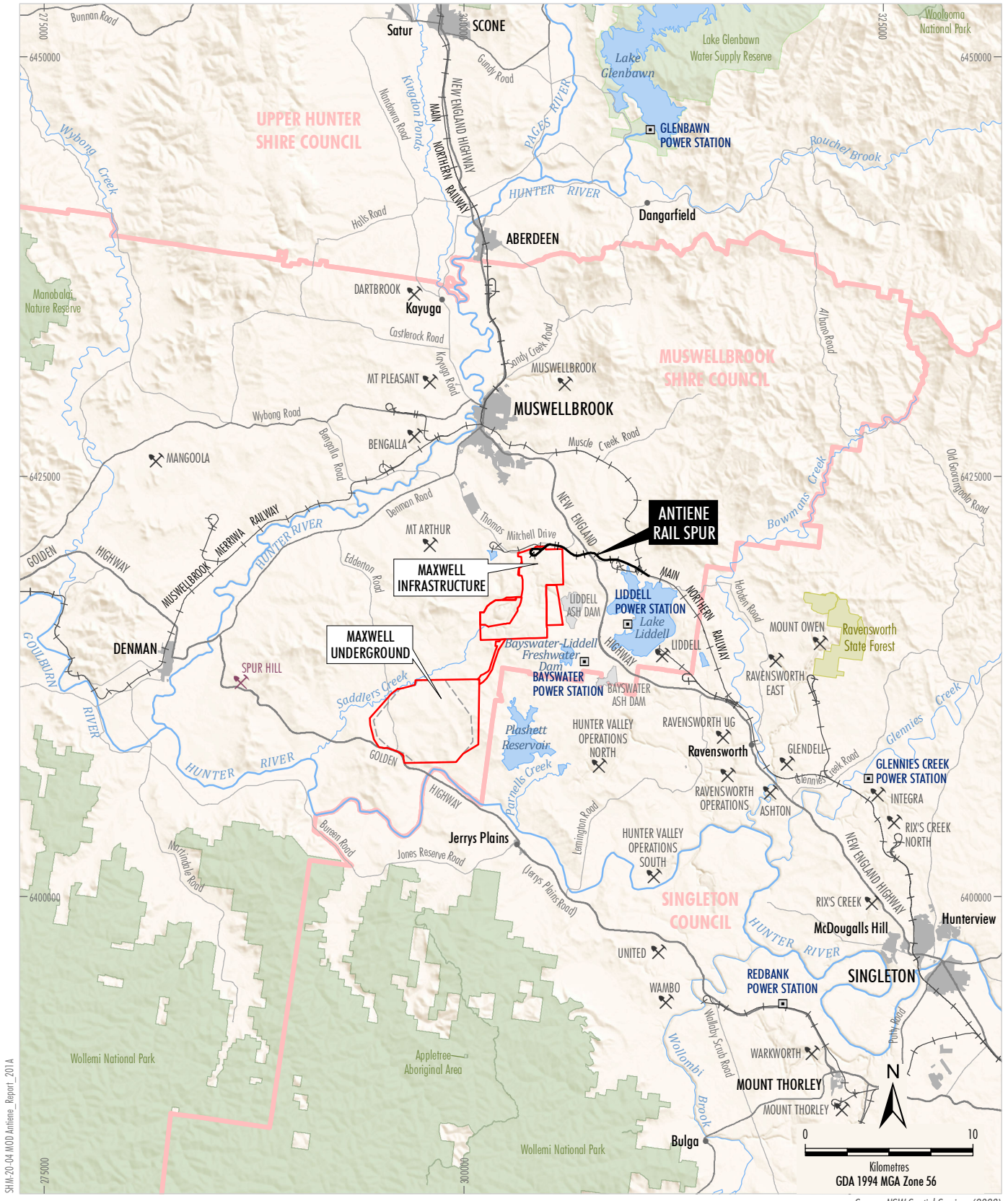
The section of the Antiene Rail Spur used to service the former Drayton Mine (now the Maxwell Project) is approved to operate under Development Consent DA 106-04-00 until November 2025.

Development Consent SSD 9526 for the Maxwell Project was granted by the NSW Independent Planning Commission (IPC) on 22 December 2020. The Maxwell Project was subsequently approved under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in March 2021 (EPBC 2018/8287).

Development Consent SSD 9526 has been modified twice (referred to as Mod 1 and Mod 2). EPBC 2018/8287 has also been varied to address the changes arising from Mod 1 to Development Consent SSD 9526.

The Maxwell Project is an underground mining operation that is approved to operate for 26 years (until 2047). The Maxwell Project involves extraction of run-of-mine coal from four seams within the Wittingham Coal Measures.

On 26 February 2018, the ownership of the former Drayton Mine (now the Maxwell Project) was formally transferred to Malabar. The substantial existing infrastructure at the Maxwell Project is approved for handling, processing and transportation of coal for the life of the Maxwell Project. The existing Maxwell infrastructure includes train load-out facilities and a rail loop connecting to the Antiene Rail Spur.



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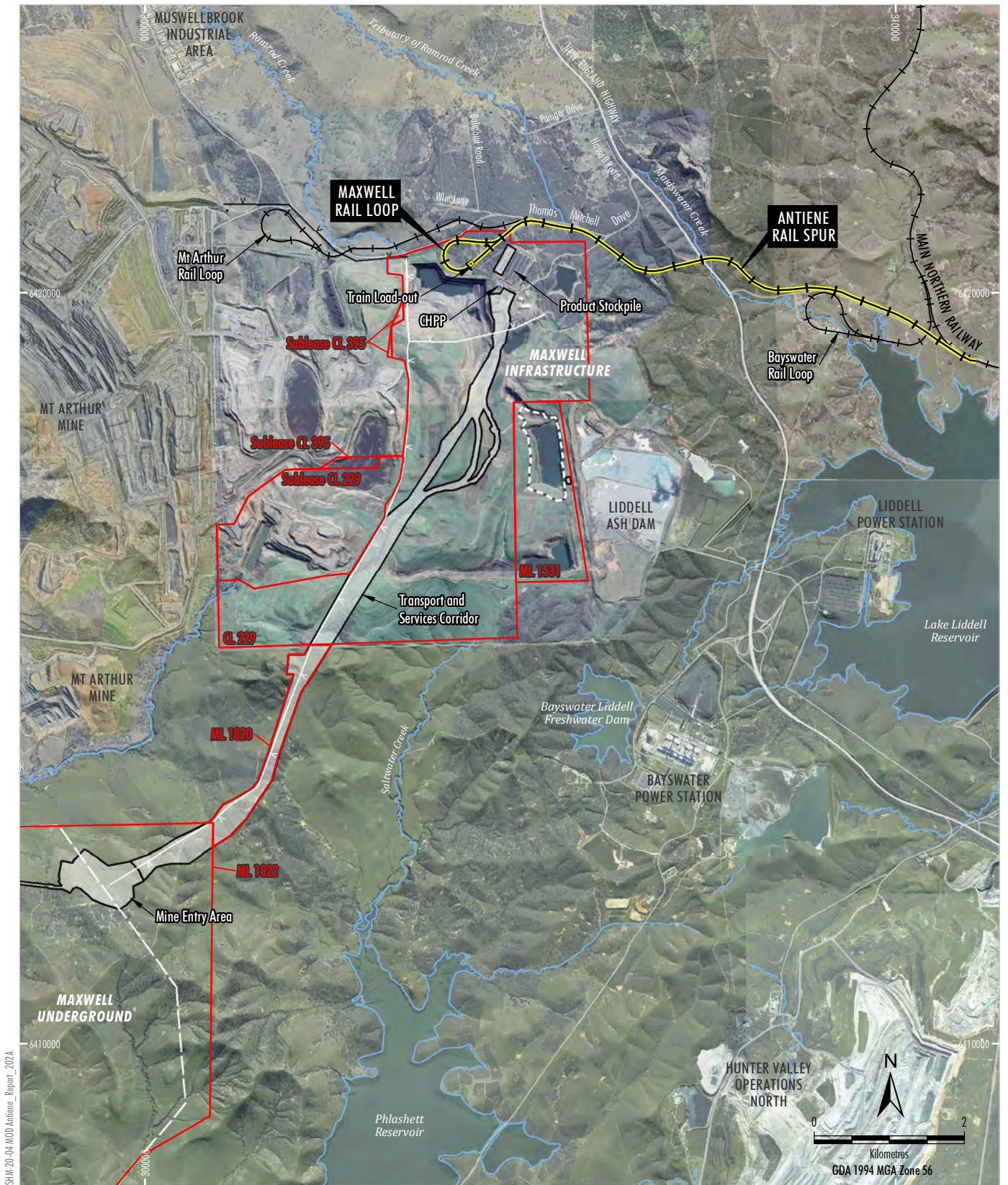
Source: NSW Spatial Services (2023)



- LEGEND**
- Mining Operation
 - Proposed Mining Operation
 - Railway
 - Local Government Boundary
 - State Forest
 - National Parks and Wildlife Service Estate
 - Mining and Coal Lease Boundary
 - Indicative Extent of Underground Development

MALABAR
ANTIENE RAIL SPUR MODIFICATION
 Regional Location

Figure 1



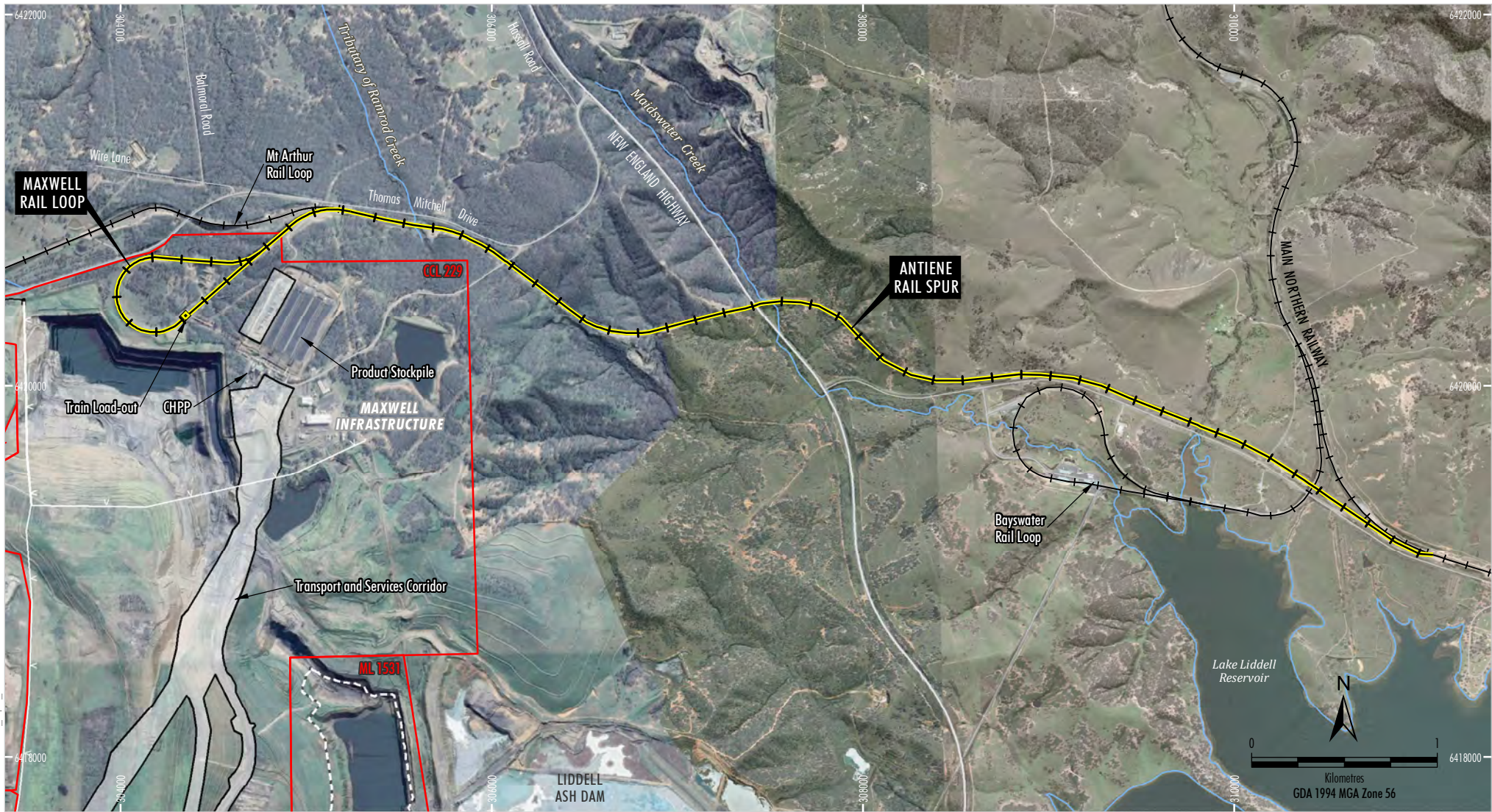
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Source: NSW Spatial Services (2023)
Orthophoto Mosaic: 2020, 2019

- LEGEND**
- Railway
 - Antiene Rail Spur
 - Mining and Coal Lease Boundary
 - Proposed Ausgrid 66 kV Power Supply Extension
 - Approved Maxwell Underground Mine
 - Modified Indicative Underground Mining Extent
 - Indicative Surface Development Area
 - CHPP Reject Emplacement Area
 - 66 kV Power Supply

MALABAR
ANTIENE RAIL SPUR MODIFICATION
 Antiene Rail Spur
 and Maxwell Project

Figure 2



Source: NSW Spatial Services (2023); Orthophoto Mosaic: 2020, 2019

- LEGEND**
- Railway
 - Antiene Rail Spur
 - Mining and Coal Lease Boundary
 - Proposed Ausgrid 66 kV Power Supply Extension
 - Approved Maxwell Underground Mine
 - Indicative Surface Development Area
 - CHPP Reject Emplacement Area
 - 66 kV Power Supply

MALABAR
 ANTIENE RAIL SPUR MODIFICATION
 Antiene Rail Spur

Figure 3

Condition A10 of Development Consent SSD 9526 includes the following note:

Note: the loading and transportation of coal via the rail loop and Antiene Rail spur is subject to a separate development consent (DA 106-04-00).

1.3 MODIFICATION OVERVIEW

The Modification would extend the operation of the Antiene Rail Spur Development Consent DA 106 04-00 to align with the approved operating life of the Maxwell Project (i.e. until 2047).

The Modification would not increase the total allowable train movements on the Antiene Rail Spur, and the maximum train movements on the Maxwell Project’s rail loop would remain consistent with the approved maximum described in the Development Consent DA 106-04-00.

A small portion of the Antiene Rail Spur is located on Crown Land and Railway Land. However, all freehold land associated the Antiene Rail Spur is owned by Malabar and AGL (Figures 4 and 5).

The Modification does not propose an increase to surface disturbance (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure).

The Modification is sought under section 4.55(2) of the EP&A Act, on the basis that the continued operation of the Antiene Rail Spur is ‘substantially the same’ as the development for which the consent was originally granted.

Potential environmental impacts associated with the continued use of the Antiene Rail Spur for the Maxwell Project have been assessed in the *Maxwell Project Environmental Impact Statement* (the Maxwell Project EIS) (Malabar, 2019a) and this Modification Report.

1.4 STRUCTURE OF THIS MODIFICATION REPORT

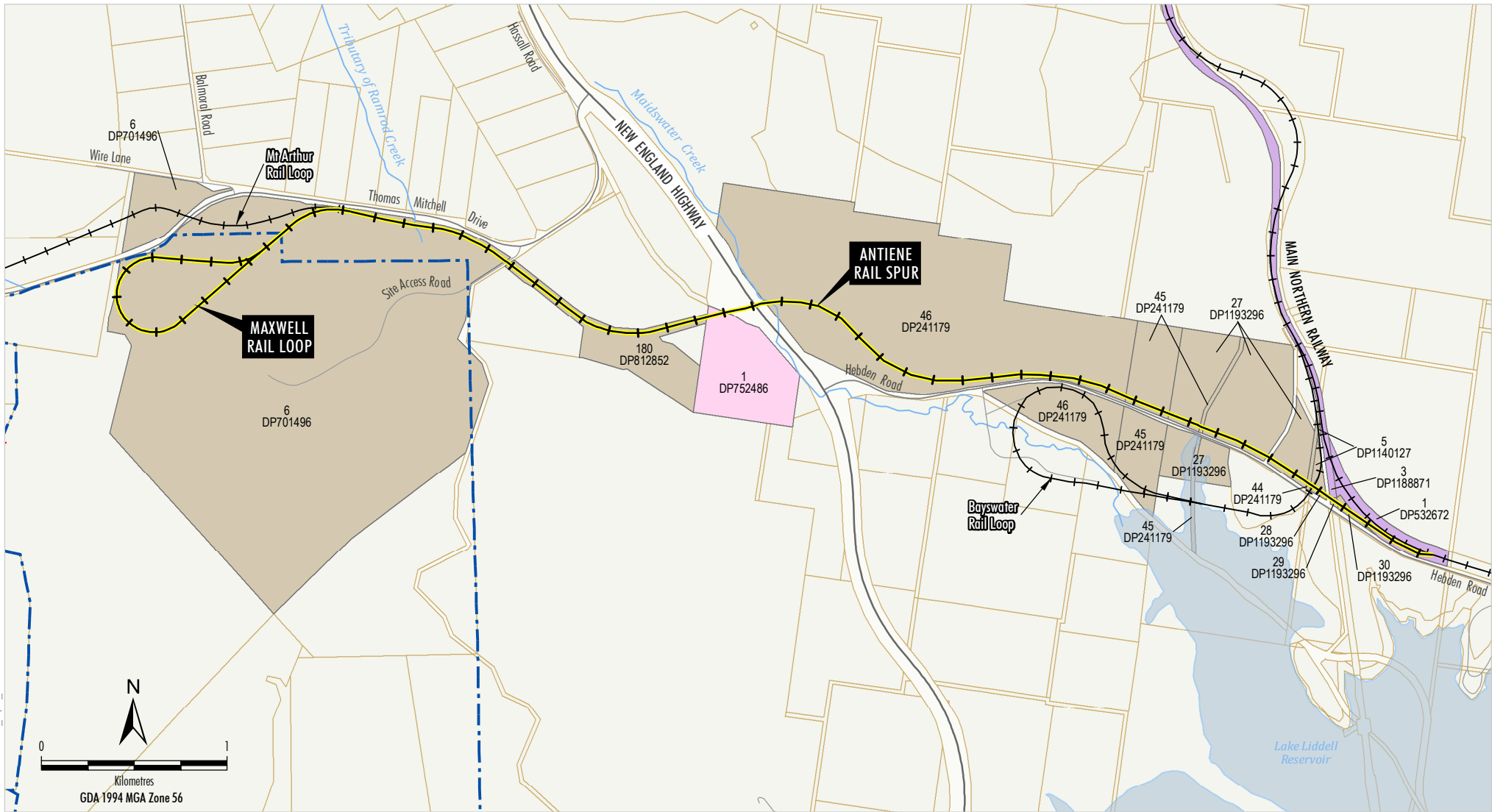
An overview of the main text of this Modification Report is presented below:

Section 1	Provides a background description of the Modification and an overview of the Modification.
Section 2	Outlines the strategic planning context relevant to the Modification and the interactions with other developments.

Section 3	Provides a detailed description of the Modification.
Section 4	Outlines the statutory provisions relevant to the Modification.
Section 5	Describes the consultation and engagement undertaken in relation to the Modification and ongoing community involvement.
Section 6	Details the environmental assessment of the Modification and describes the existing environmental management systems and measures that would be available to manage and monitor any potential impacts.
Section 7	Provides a justification of the Modification and provides a conclusion.
Section 8	Lists the documents referenced in the main text of the Modification Report.









Attachment 1 and Appendices A to D provide supporting information as follows:

Attachment 1	Detailed Statutory Compliance Reconciliation Table
Appendix A	Maxwell Project Noise Impact Assessment
Appendix B	Maxwell Project Air Quality and Greenhouse Gas Assessment
Appendix C	Maxwell Project Road Transport Assessment
Appendix D	Maxwell Project Social Impact Assessment



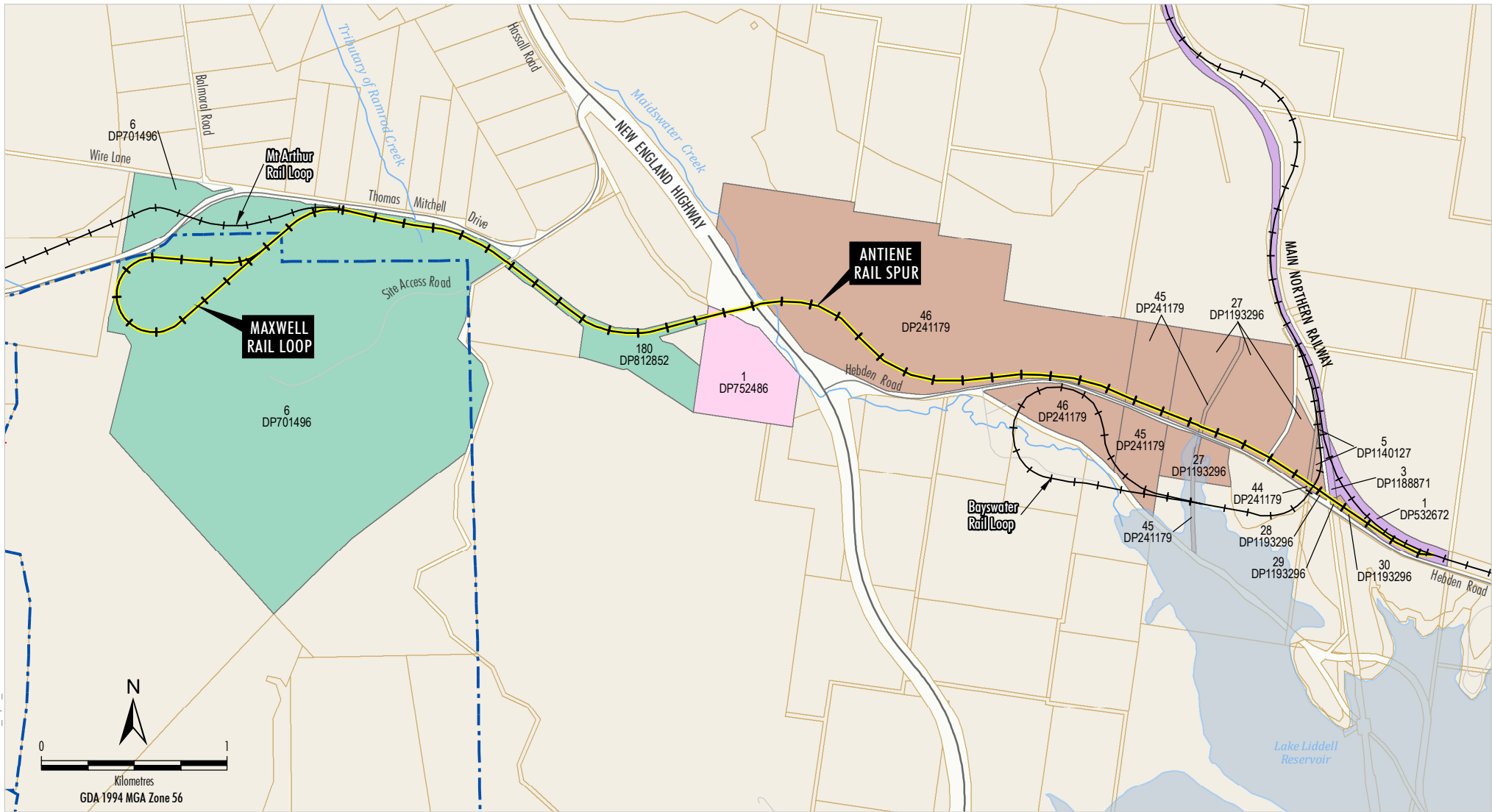
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Source: NSW Spatial Services (2023)

- LEGEND**
-  Railway
 -  Antiene Rail Spur
 -  Cadastral
 -  Development Application Area SSD 9526
 -  Antiene Rail Spur DA Area Landholders
 -  Private Landholder
 -  Crown Land
 -  Railway Land (ARTC/Transport for NSW)











ANTIENE RAIL SPUR MODIFICATION
 Antiene Rail Spur
 DA Area

Figure 4



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Source: NSW Spatial Services (2023)

- LEGEND**
-  Railway
 -  Antiene Rail Spur
 -  Cadastral
 -  Development Application Area SSD 9526
 -  Antiene Rail Spur DA Area Landholders
 -  Malabar
 -  AGL
 -  Crown Land
 -  Railway Land (ARTC/Transport for NSW)


ANTIENE RAIL SPUR MODIFICATION
 Antiene Rail Spur
 DA Area Landholders

Figure 5

2 STRATEGIC CONTEXT

This section outlines the strategic context and need for the Modification.

2.1 REGIONAL CONTEXT

The Antiene Rail Spur is located within the Hunter Coalfield. The Hunter Coalfield and adjacent Newcastle Coalfield in the Sydney-Gunnedah Basin form the target resource of major coal developments in the Hunter region. The Antiene Rail Spur is surrounded by various developments, including coal mining, power generation and agriculture.

The Antiene Rail Spur has been servicing the former Drayton Mine since 1983, the Mt Arthur Mine since 2001 and the Maxwell Project since 2023. The Maxwell Project is approved to transport product coal via the Antiene Rail Spur.

The Antiene Rail Spur is used to transport coal from these operations via the Main Northern Railway Line to the Port of Newcastle for export.

2.2 BENEFITS OF THE MODIFICATION

The Modification is required to extend the operation of the Antiene Rail Spur Development Consent DA 106-04-00 to align with the approved operating life of the Maxwell Project (i.e. until 2047).

The Modification is required to realise the significant net benefit the Maxwell Project would generate to the State of NSW. The *Maxwell Underground Coal Mine Project SSD-9526 Statement of Reasons for Decision* (IPC, 2020) states:

In summary, the Commission finds the:

- *the Project to be a lawful and appropriate use of the land and notes the benefits associated with it being in the Hunter coalfield, close to several other mining operations and power stations, where sharing of infrastructure is possible*
- *the Project will deliver significant economic benefits for the local area, region and State including 250 construction and 350 operational jobs*

2.3 INTERACTIONS WITH OTHER DEVELOPMENTS

The Antiene Rail Spur is owned by the Antiene Joint Venture, which is currently managed by BHP and Malabar.

As described in Section 1.2, the use of the Antiene Rail Spur was initially governed by two separate planning approvals, granted individually to Drayton Mine and Mt Arthur Mine on 2 November 2000. These were Development Consents DA 106-04-00 and DA 105-04-00, respectively. The two approvals had complementary provisions and interacting obligations that were supported by one EIS that jointly assessed the use of the Antiene Rail Spur by Drayton Mine and Mt Arthur Mine.

Under the two complementary approvals, Anglo American plc and BHP entered into a joint acquisition management plan in January 2001 to manage cumulative impacts between the respective mining operations and the joint use of the Antiene Rail Spur.

The Joint Acquisition Management Plan provides a means for both companies to cooperate in the management of potential cumulative dust and noise impacts caused by the operation of the Antiene Rail Spur and mining on privately-owned properties. This is achieved by working together to ameliorate impacts and, where possible, reduce emissions. The companies may also agree to purchase properties if cumulative impacts exceed governed criteria.

In 2010, BHP consolidated a number of their existing planning approvals; subsequently, the Development Consent DA 105-04-00 was surrendered and the relevant conditions were incorporated into Project Approval (09_0062).

2.3.1 Mt Arthur Mine

HVEC, a wholly owned subsidiary of BHP, owns and operates the Mt Arthur Mine. The Mt Arthur Mine is comprised of the Mt Arthur Open Cut and the Mt Arthur Underground.

The Antiene Rail Spur services Mt Arthur Mine to transport coal from their operations via the Main Northern Railway Line to the Port of Newcastle for export.

Mt Arthur Mine is currently approved to operate until 30 June 2026, in accordance with Project Approval (09_0062). In June 2022, HVEC announced a decision to cease mining at the Mt Arthur Mine in 2030, as part of a plan to provide a pathway to closure of the operation. A scoping letter has been submitted to DPE in regard to a modification to Project Approval (09_0062) to extend the life of the mine to 2030.

2.3.2 Liddell and Bayswater Stations

The land to the immediate north and south of the Antiene Rail Spur is owned by AGL, and forms part of the buffer lands for its power stations.

The Liddell Power Station operated under a development consent issued by the Denman Shire Council (now part of the Muswellbrook Shire Council) and Environment Protection Licence (EPL) 2122.

The Bayswater Power Station currently operates under Project Approval (06_0047) and EPL 779.

The Liddell Power Station was closed by AGL in April 2023. The Bayswater Power Station is currently planned for closure in 2035.

There would be no change to the interactions with these power stations associated with the Antiene Rail Spur as the Modification does not materially change the scale or nature of the Antiene Rail Spur and the Modification would not affect the announced plans for these power stations.

2.4 KEY STRATEGIC PLANNING DOCUMENTS

2.4.1 Hunter Regional Plan

The Modification is located within the Muswellbrook Local Government Area (LGA), and is covered by the *Hunter Regional Plan 2041* (NSW Department of Planning and Environment [DPE], 2022). The *Hunter Regional Plan 2041* provides a blueprint for greater prosperity in the region over the next 18 years from 2023.

The *Hunter Regional Plan 2041* identifies freight networks as a significant opportunity to enhance the Hunter's global reach via the Port of Newcastle (DPE, 2022).

The *Hunter Regional Plan 2041* acknowledges that freight networks have supported the function of many economic sectors across the Hunter and will continue to underpin the growth and diversification of the Hunter's economy and employment base (DPE, 2022).

The *Hunter Regional Plan 2041* also identifies mining as an economic powerhouse that provides significant opportunities for social sustainability through the facilitation of employment, which in return sustains regional communities (DPE, 2022).

Relevant strategies in the *Hunter Regional Plan 2041* (DPE, 2022) include:

Strategy 4.9

Local strategic planning will consider opportunities to:

- *protect, maintain and improve the existing and approved freight transport networks*
- *balance the need to minimise negative impacts of freight movements on urban amenity with the need to support efficient freight movements and deliveries*
- *limit incompatible uses in areas expected to have intense freight activity*
- *limit incompatible freight uses in and near residential areas*

The Modification would allow the Hunter region to maintain existing freight transport networks that would minimise negative impacts of freight movements on urban amenity for the life of the Maxwell Project (i.e. until 2047). The Modification would also facilitate local and regional employment and economic development opportunities.

The Modification would continue to provide an efficient pathway to deliver coal to national and international markets helping maintain existing economic gateways. Given the export capability of the Port of Newcastle, the Modification would also provide continued infrastructure linkages that improves diversification of port activities.

The Modification would allow for more efficient and timely access to the State's coal resources. The Modification would not materially change the scale or nature of the approved Maxwell Project and Antiene Rail Spur and would continue to align with the strategies of the *Hunter Regional Plan 2041*.

2.4.2 Other Strategic Planning Documents and Policies

Section 4.1 and Attachment 7 of the Maxwell Project EIS (Malabar, 2019a) considered the relevant strategic planning documents and policies for the approved Maxwell Project and Antiene Rail Spur.

In approving the Maxwell Project, the IPC stated (IPC, 2020):

In making its determination, the Commission has assessed the application of relevant planning instruments, policies and environmental protections, and the capacity of the Project reasonably and satisfactorily to identify, avoid, mitigate and manage impacts by imposing conditions on the consent.

The Modification would not materially change the scale or nature of the Antiene Rail Spur DA 106-04-00, and the Maxwell Project would remain consistent with the relevant strategic planning documents and policies for the Maxwell Project, as described in Section 4.1 and Attachment 7 of the Maxwell Project EIS (Malabar, 2019a).

3 DESCRIPTION OF THE MODIFICATION

3.1 OVERVIEW

The Modification would not require a significant alteration to the approved Antiene Rail Spur (DA 106-04-00). A description of the Modification is provided below.

The Modification is located partially within and to the north of the Maxwell Project’s existing infrastructure and would comprise the extension of Antiene Rail Spur (DA 106-04-00) operating life to align with the approved operating life of the Maxwell Project (i.e. until 2047).

The Modification would not change the following approved Antiene Rail Spur (DA 106-04-00) components:

- maximum annual transportation limits;
- maximum train movement limits;
- transport noise criterion;
- general infrastructure;
- workforce; and
- hours of operation.

Table 1 provides a comparative summary of the approved Antiene Rail Spur Development Consent DA 106-04-00 and the Modification.

The Modification would not change the approved rail transport limits in any one year (e.g. would remain at 20 million tonnes [Mt]).

Based on a review of the proposed changes, Malabar considers that the Modification would be ‘substantially the same’ as the approved Antiene Rail Spur Development Consent DA 106-04-00.

3.2 PROPOSED AMENDMENTS TO DEVELOPMENT CONSENT

The Modification would require amendments to the existing Antiene Rail Spur Development Consent DA 106-04-00. A summary of the proposed amendments is provided in Table 2.

Malabar will consult with key NSW Government agencies post approval to update the Antiene Rail Spur management plans to reflect the Modification. The management plans that would likely be reviewed and updated includes:

- Dust Management Plan (forms part of the Air Quality and Greenhouse Gas Management Plan for the Maxwell Project);
- Noise Management Plan (forms part of the Noise and Blasting Management Plan for the Maxwell Project); and
- Water Management Plan (forms part of the Water Management Plan for the Maxwell Project).

**Table 1
Overview of the Approved Antiene Rail Spur and the Modification**

Component	Approved Antiene Rail Spur Development Consent DA 106-04-00	Proposed Modification
Product Transport	Transport of up to 20 Mt of product coal per annum along the Antiene Rail Spur.	Unchanged.
Transport Number	Transport of product coal is limited to 30 train movements (15 trains) per day along the Antiene Rail Spur. Of these, a maximum of 12 train movements to the Maxwell Project’s rail loop ¹ .	Unchanged.
Noise Management	Noise Management system, including: real-time noise monitoring, noise control measures, rail transportation noise, and noise criteria.	Unchanged.
Operational Life	Transport of coal for a period of 25 years (i.e. 2025).	Change of operating life to align with the operating life of the approved Maxwell Project (i.e. until 2047).
General Infrastructure	Use of the existing Antiene Rail Spur infrastructure.	Unchanged.
Hours of Operation	Operated on a continuous basis, 24 hours per day, seven days per week.	Unchanged.

¹ The Mt Arthur Mine is currently approved for a maximum of 30 train movements a day on the Antiene Rail Spur under Project Approval (09_0062).

Table 2
Summary of Proposed Amendments to the Antiene Rail Spur Development Consent

Reference	Existing Condition	Proposed Condition	Justification
-	Department names, titles and guidelines should be updated to their latest version.		Global administrative update.
Schedule 2, Condition 1.2	(i) <i>The approval for coal transport operations is for a period of 25 years from the date of this consent.</i> ...	Coal transport operations may be carried out until 30 June 2047.	Proposed amendment to operating life is required to permit the transport product coal from the Maxwell Project by rail to the Port of Newcastle.
Schedule 2, Condition 2.2 (new)	-	With the approval of the Secretary, the Applicant may integrate any strategy, plan, program, report, review or audit required by this consent with any similar strategy, plan, program, report, review or audit for the Maxwell Project (SSD 9526).	This proposed amendment would explicitly provide for integrated management plans and monitoring programs that would allow for effective environmental management across the consents. The relevant plans to be updated are outlined in Section 3.2.

4 STATUTORY CONTEXT

This section outlines the statutory requirements relevant to the assessment of the Modification.

4.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act and *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) set the framework for planning and environmental assessment in NSW.

4.1.1 Applicability of Section 4.55(2) of the EP&A Act

Development Consent DA 106-04-00 was granted under Part 4 of the EP&A Act on 2 November 2000.

Section 4.55(2) of the EP&A Act relevantly provides:

4.55 Modification of consents—generally

...

- (2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—
- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- 1 it has notified the application in accordance with—
- (i) the regulations, if the regulations so require, or
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

The use and function of the Antiene Rail Spur remain unchanged if the Modification is approved. Therefore, the consent authority can be satisfied that the Antiene Rail Spur incorporating the Modification would remain 'substantially the same' as the development for which the consent was originally granted.

This Modification Report is a Statement of Environmental Effects that has been prepared in support of the application to modify Development Consent DA 106-04-00.

As outlined in the *State Significant Development Guidelines* (Department of Planning, Industry and Environment [DPIE] [now known as DPE], 2021a), Attachment 1 provides a detailed statutory compliance table for the Modification that identifies all the relevant statutory requirements and the relevant sections in this Modification Report that address these requirements.

4.2 RELEVANT NSW LEGISLATION

In addition to the EP&A Act, the following NSW legislation may be applicable to the Antiene Rail Spur, incorporating the Modification:

- *Aboriginal Land Rights Act 1983*;
- *Biodiversity Conservation Act 2016* (BC Act);
- *Biosecurity Act 2015*;
- *Contaminated Lands Management Act 1997*;
- *Crown Land Management Act 2016*;
- *Dangerous Goods (Road and Rail Transport) Act 2008*;
- *Electricity Supply Act 1995*;
- *Fisheries Management Act 1994*;
- *Heritage Act 1977*;
- *Mining Act 1992*;
- *National Parks and Wildlife Act 1974* (NPW Act);
- *Native Title (NSW) Act 1994*;
- *Protection of the Environment Operations Act 1997*;

- *Roads Act 1993*;
- *Water Management Act 2000*; and
- *Work Health and Safety Act 2011*.

Relevant licences or approvals required under these Acts would continue to be obtained for the Antiene Rail Spur and the Maxwell Project.

Biodiversity Conservation Act 2016

The BC Act provides the approach to be followed for conducting an assessment of a development’s impacts on threatened species and ecological communities.

Under the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, a Biodiversity Development Assessment Report is not required to be submitted with a modification if the authority or person determining the application for modification (or determining the environmental assessment requirements for the application) is satisfied that the modification would not increase the impact on biodiversity values.

The Modification does not require additional surface disturbance beyond the approved areas (Section 3) and would therefore not increase the impact on biodiversity values, including threatened species and ecological communities.

Nonetheless, biodiversity values requiring consideration in accordance with section 7.17(2)l of the BC Act and clause 1.4 of the *Biodiversity Conservation Regulation 2017* are addressed in Table 3.

Accordingly, with reference to section 7.17(2)l of the BC Act and the *Threatened Species Test of Significance Guidelines* (State of NSW and Office of Environment and Heritage, 2018), no Biodiversity Development Assessment Report is required for the Modification as the Modification would not increase impacts on biodiversity values.

National Parks and Wildlife Act 1974

The NPW Act contains provisions for the protection and management of national parks, historic sites, nature reserves and Aboriginal heritage in NSW.

An Aboriginal Cultural Heritage Assessment Report is not required for the Modification as no additional surface disturbance is proposed (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure).

**Table 3
Biodiversity Values Consideration**

Biodiversity Value	Modification Consideration
(a) <i>threatened species abundance—being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site,</i>	There is no additional surface disturbance proposed for the Modification (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure). Therefore, there is no impact on threatened species abundance anticipated.
(b) <i>vegetation abundance—being the occurrence and abundance of vegetation at a particular site,</i>	There is no additional surface disturbance proposed for the Modification (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure). Therefore, there is no impact on vegetation abundance anticipated.
(c) <i>habitat connectivity—being the degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range,</i>	There is no additional surface disturbance proposed for the Modification (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure). Therefore, there is no impact on habitat connectivity anticipated.
(d) <i>threatened species movement—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle,</i>	There is no additional surface disturbance proposed for the Modification (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure). Therefore, there is no impact on threatened species movement anticipated.
(e) <i>flight path integrity—being the degree to which the flight paths of protected animals over a particular site are free from interference,</i>	The Modification does not propose the construction of any new infrastructure for the Antiene Rail Spur beyond those already approved. Therefore, there is no impact on flight path integrity anticipated.
(f) <i>water sustainability—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.</i>	There is no additional surface disturbance proposed for the Modification (i.e. the Modification is limited to an extension of time for the use of the existing infrastructure). Therefore, there is no impact on water sustainability anticipated.

Mining Act 1992

The objects of the *Mining Act 1992* are to encourage and facilitate the discovery and development of mineral resources in NSW, having regard to the need to encourage ecologically sustainable development.

The Maxwell Project would operate wholly within existing mining and coal leases (e.g. ML 1820, ML 1822, ML 1531, CL 395 and CL 229). Part of the Antiene Rail Spur is located within CL 229. There would be no need for the amendment or variation of the existing authorities or the issue of new authorities under the *Mining Act 1992*.

4.3 ENVIRONMENTAL PLANNING INSTRUMENTS

State environmental planning policies of relevance to the Maxwell Project and the Antiene Rail Spur were described in the Maxwell Project EIS (Malabar, 2019a). Detail on potential Modification requirements under the key environmental planning instruments is included in the statutory compliance table provided in Attachment 1.

Muswellbrook Local Environmental Plan 2009

The Antiene Rail Spur Development Application area is covered by the *Muswellbrook Local Environmental Plan 2009* (Muswellbrook LEP) and includes land zoned under the Muswellbrook LEP as:

- Zone RU1 (Primary Production); and
- Zone SP2 (Infrastructure).

The Modification is not inconsistent with the general objectives of Zone RU1 (Primary Production) as:

- The Modification would facilitate the continued development of a natural resource (coal) from the Maxwell Project.
- The Modification does not propose an increase to surface disturbance and would maintain rural landscapes.
- The Modification would not have a significant detrimental impact on current or future extraction or recovery of coal and is not incompatible with adjacent land uses.

The Modification is consistent with the objectives of Zone SP2 (Infrastructure) under the Muswellbrook LEP, particularly as the Antiene Rail Spur is not incompatible with the adjacent operations including the Main Northern Railway Line and the Liddell and Bayswater Power Stations.

The Modification also allows recognition of the existing Antiene Rail Spur infrastructure to enable continued transport of product coal from the Maxwell Project to the Port of Newcastle which is consistent with the Zone SP2 (Infrastructure) objectives under the Muswellbrook LEP.

4.4 COMMONWEALTH LEGISLATION

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act defines proposals that are likely to have a significant impact on a matter of national environmental significance as a 'controlled action'. A proposal that is, or may be, a controlled action is required to be referred to the Commonwealth Minister for the Environment and Energy (the Commonwealth Minister) for a determination as to whether or not the action is a controlled action.

Matters of national environmental significance include:

- world heritage properties;
- national heritage places;
- wetlands listed under the Ramsar Convention;
- listed threatened species and communities;
- listed migratory species;
- nuclear actions;
- the Commonwealth marine environment;
- the Great Barrier Reef Marine Park; and
- water resources, in relation to coal seam gas development and large coal mining developments.

The proposed action to develop and operate an underground mining operation and utilise the existing infrastructure at the Maxwell Project, was referred to the Commonwealth Minister in September 2018 (EPBC 2018/8287) (the proposed action). The proposed action included the transport of product coal from the Maxwell Project via the Antiene Rail Spur and Main Northern Railway to market or to the Port of Newcastle for export.

A delegate of the Commonwealth Minister determined on 12 November 2018 that the proposed action is a controlled action and, therefore, the action also requires approval under the EPBC Act due to potential impacts on the following provisions under Part 3 of Chapter 2 of the EPBC Act:

- listed threatened species and communities (sections 18 and 18A); and
- a water resource, in relation to coal seam gas development and large coal mining development (section 24D and 24E).

The delegate of the Commonwealth Minister also determined on 12 November 2018 that, pursuant to section 87 of the EPBC Act, the proposed action is to be assessed under the NSW accredited assessment process under Part 4 of the EP&A Act.

The Maxwell Project was approved under the EPBC Act in March 2021 (EPBC 2018/8287). EPBC 2018/8287 approval has effect until 30 June 2057.

5 ENGAGEMENT

Malabar is committed to continuing open and constructive dialogue with the local community and stakeholders.

The extension in operating life formed part of the comprehensive consultation conducted for the Maxwell Project. Further contemporary and targeted consultation has been conducted with the relevant government agencies, Community Consultative Committees (CCCs), neighbouring landholders and tenement holders during the preparation of this Modification Report. A summary of this consultation is provided below.

It is anticipated that consultation will continue during the assessment of the Modification by the NSW Government.

5.1 DEPARTMENT OF PLANNING AND ENVIRONMENT

Malabar provided a briefing package and held a Scoping Meeting with DPE on **5 December 2022** to provide an overview of the Modification, proposed approval pathway and the proposed scope of the environmental assessment.

On **9 December 2022**, Malabar provided a letter to DPE regarding the Modification, proposed approval pathway and the proposed scope of the environmental assessment.

DPE subsequently provided a response to Malabar on **23 January 2023** confirming DPE did not have any comments regarding the scoping of the Modification Report at the time.

Malabar held a pre-lodgement meeting with DPE on **24 May 2023** to provide an overview of the Modification Report and outcomes of the environmental assessments.

Malabar will continue to consult with DPE throughout the Modification assessment process.

5.2 NSW ENVIRONMENT PROTECTION AUTHORITY

Malabar provided a briefing letter to the NSW Environment Protection Authority (EPA) on 3 February 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

In reply on 14 February 2023, the EPA indicated that it did not have any comments on the briefing letter.

5.3 CROWN LANDS

Malabar provided a briefing letter to Crown Lands on 21 March 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by Crown Lands in relation to the Modification to date.

5.4 TRANSPORT FOR NSW

Malabar provided a briefing letter to Transport for NSW on 21 March 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by Transport for NSW in relation to the Modification to date.

5.5 MUSWELLBROOK SHIRE COUNCIL

The Modification is located within the Muswellbrook Shire Council (Figure 1).

Malabar provided a briefing letter to the Muswellbrook Shire Council on 3 February 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by Muswellbrook Shire Council in relation to the Modification to date.

5.6 COMMUNITY CONSULTATIVE COMMITTEE

Malabar is involved in the following CCCs:

- Maxwell CCC, which is a condition of Development Consent SSD 9526; and
- Antiene Rail Spur CCC, which is a condition of Development Consent DA 106-04-00 and combines the Maxwell CCC and the Mt Arthur Mine CCC.

The CCCs provide an opportunity for Malabar to keep the local community informed about its activities and to seek community views and feedback.

The Maxwell CCC meets quarterly, at times agreed by the Committee and the Chair. The Antiene Rail Spur CCC meets on a bi-annual basis. Meeting minutes and presentations for the Maxwell and Antiene Rail Spur CCCs are publicly available on the Malabar website.

Malabar provided an overview of the Modification to the Maxwell and Antiene Rail Spur CCC on 15 March 2023. The CCC meetings were attended by:

- the independent chairpersons of the Maxwell CCC and the Mt Arthur CCC;
- a councillor from Muswellbrook Shire Council;
- community representatives; and
- a representative from the Coolmore and Godolphin Woodlands Studs.

5.7 AUSTRALIAN RAIL TRACK CORPORATION

The Hunter Valley coal rail network is managed by the Australian Rail Track Corporation (ARTC). The Antiene Rail Spur connects to the Main Northern Railway Line, which forms part of the Hunter Valley coal rail network. The Main Northern Railway Line would be used for product coal transportation by the Maxwell Project to the Port of Newcastle.

A Modification briefing letter was sent to the ARTC on 30 January 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by ARTC in relation to the Modification to date.

5.8 HUNTER VALLEY COAL CHAIN COORDINATOR

The Hunter Valley Coal Chain Coordinator (HVCCC) plans and co-ordinates the co-operative daily operation and long-term capacity alignment of the Hunter Valley coal rail network.

A Modification briefing letter was sent to the HVCCC on 26 April 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

In reply on 8 May 2023, the HVCCC did not raise any issues in relation to the Modification and indicated that it did not require a meeting.

5.9 BHP

Malabar regularly and actively engages with BHP regarding interactions between Mt Arthur Mine and the Maxwell Project. Previous consultation with BHP in relation to the Maxwell Project has included:

- sharing of environmental monitoring data, including groundwater, surface water and air quality data;
- sharing mine water between the operations;
- continued shared use of the Antiene Rail Spur, which is jointly managed by BHP and Malabar; and
- potential integration and interactions between the Maxwell Project and Mt Arthur Mine final landforms.

Malabar provided a briefing letter to BHP on 3 February 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by BHP in relation to the Modification to date.

Malabar will continue to engage with BHP in relation to potential interactions between the Modification and Mt Arthur Mine.

5.10 AGL

Consultation occurs regularly between Malabar and AGL in relation to existing agreements between the parties, which include:

- an easement in favour of AGL across Malabar's land for the existing AGL-owned conveyor, which transports coal from Mt Arthur Mine to Bayswater Power Station; and
- a lease granted to Malabar to occupy AGL's land within ML 1531 to facilitate mining activities.

Malabar provided a briefing letter to AGL on 3 February 2023 to provide an overview of the Modification and the supporting environmental assessment extracts from the Maxwell Project EIS.

No issues have been raised by AGL in relation to the Modification to date.

Malabar will continue to engage with AGL in relation to potential interactions between the Modification and AGL's Liddell and Bayswater Power Stations.

6 ASSESSMENT OF IMPACTS

Malabar has undertaken a review of the potential environmental impacts of the Modification to identify key potential environmental issues requiring assessment.

Potential environmental impacts associated with the continued use of the Antiene Rail Spur for the Maxwell Project were assessed in the Maxwell Project EIS. Accordingly, no new technical studies are considered to be required for the Modification. Instead, this section will summarise the relevant outcomes of the technical studies that were completed for the Maxwell Project EIS.

The key environmental matters related to the Modification are identified and addressed in Sections 6.1 to 6.5 and Appendices A to D. Other environmental considerations are discussed in Section 6.6.

6.1 TRANSPORT NOISE

6.1.1 Methodology

Rail transport noise was considered as part of the *Maxwell Project Noise Impact Assessment* undertaken for the Maxwell Project EIS by Wilkinson Murray (2019). This assessment is provided in Appendix A.

Wilkinson Murray (2019) undertook an assessment of rail noise impacts associated with the existing and approved Maxwell Project-related train movement on the Antiene Rail Spur and Main Northern Railway Line in accordance with the *Rail Infrastructure Noise Guideline* (RING) (EPA, 2013).

The RING sets out the methodology for assessing rail traffic generation on existing rail network and non-network rail lines. The Antiene Rail Spur is characterised as a non-network rail line, while the Main Northern Railway Line is characterised as a network rail line.

Table 4 provides a summary of each assessment method for the sections of the rail lines that were considered in the *Maxwell Project Noise Impact Assessment* (Appendix A).

This Modification Report considers the potential noise impacts associated with the continued use of the Antiene Rail Spur and the downstream noise impacts associated with the Main Northern Railway Line.

6.1.2 Background

The Antiene Rail Spur is regulated by Project Approval (09_0062) and Development Consent DA 106-04-00, including the noise limits as detailed in Table 2 of Development Consent DA 106-04-00. The spur is currently used by the Mt Arthur Mine and was used by the former Drayton Mine (and now the Maxwell Project).

The Antiene Rail Spur connects with the Main Northern Railway Line, which forms parts of the Hunter Valley coal rail network.

Malabar manages noise impacts under the approved Noise and Blasting Management Plan (Malabar, 2023), which has been developed in accordance with Development Consent DA 106-04-00 and Development Consent SSD 9526.

Malabar uses locomotives and rolling stock approved to operate on the NSW rail network in accordance with the EPLs issued by the EPA.

There have been no noise related complaints made in regard to rail activity since 2015. Nonetheless, Malabar will continue to maintain a complaints management process to facilitate resolution of community issues of concern or complains relating to Antiene Rail Spur activities.

Table 4
Sections of Rail Line Considered in Maxwell Project Noise Impact Assessment

Rail Section	Assessment Method
Maxwell Project's rail loop	Assessed cumulatively as part of all the other on-site noise in accordance with the requirements of the <i>Noise Policy for Industry 2017</i> (EPA, 2017).
Antiene Rail Spur	RING Appendix 3 (non-network rail lines or exclusively servicing industrial sites).
Main Northern Railway Line	RING Appendix 2 (environmental assessment requirements for rail traffic-generating developments).

6.1.3 Impact Assessment Review

Antiene Rail Spur

Contemporary assessment of potential noise impacts from rail traffic generation on the Antiene Rail Spur was conducted by Wilkinson Murray (2019) in accordance with the RING, which was introduced in 2013 (Appendix A).

The rail traffic noise assessment considered a maximum case rail movement scenario that included the maximum potential cumulative rail movements of the Maxwell Project and Mt Arthur Mine (Appendix A).

No exceedances of the RING criteria for non-network rail lines are predicted at any privately-owned receivers due to the cumulative rail movements of the Maxwell Project and Mt Arthur Mine when considering local noise-enhancing meteorology (Appendix A).

The Modification's train movements would not increase the total allowable train movements on the Antiene Rail Spur, and the maximum train movements on the Maxwell Project's rail loop would be consistent with the approved maximum described in Development Consent DA 106-04-00.

Malabar would continue to comply with the approved noise limits for the Antiene Rail Spur detailed in Development Consent DA 106-04-00.

As such, the noise impacts of the Modification would be consistent with the approved Maxwell Project Development Consent SSD 9526 and the Antiene Rail Spur Development Consent DA 106-04-00 with the continued implementation of the existing noise mitigation measures, including real-time meteorological and noise monitoring and associated adaptive management measures.

Main Northern Railway Line

With regard to network rail lines, the RING has requirements for the geographic extent of rail noise assessments. In particular, assessment is not required where Project rail traffic represents less than 10% of total rail line traffic (Appendix A).

As the Maxwell Project's contribution to total rail traffic on the Main Northern Railway Line would be less than 5%, an assessment against the RING's network rail line criteria is not warranted (Appendix A). Any Maxwell Project-related noise increase on the Main Northern Railway Line would be less than 0.5 decibels (EPA, 2013).

The percentage contribution of Maxwell Project rail movements to the Main Northern Railway Line would be even lower further downstream on the Main Northern Railway Line after the contribution of other proximal mining operations, including the Hunter Valley Operations and the Greater Ravensworth Area Operations (including Liddell Coal Operations, Ravensworth Operations and Mt Owen Complex).

A number of the proposed mines/modifications that were considered at the time the Maxwell Project EIS was prepared have subsequently been approved, which further reduces the proportion of rail traffic on the Main Northern Railway Line that is associated with the Maxwell Project.

6.1.4 Mitigation Measures

Potential impacts to acoustic amenity associated with the Antiene Rail Spur and Maxwell Project would continue to be managed under the Noise and Blasting Management Plan developed in accordance with Development Consent DA 106-04-00 and Development Consent SSD 9526.

No specific additional mitigation measures are considered to be required as a result of the Modification.

6.2 AIR QUALITY

6.2.1 Methodology

The *Maxwell Project Air Quality and Greenhouse Gas Assessment* (Todoroski Air Sciences, 2019) is provided in Appendix B and considered potential air quality impacts associated with the Maxwell Project and the continued use of the Antiene Rail Spur.

6.2.2 Background

The *Maxwell Project Air Quality and Greenhouse Gas Assessment* (Todoroski Air Sciences, 2019) included a comprehensive assessment of potential air quality impacts associated with the Maxwell Project, as well as considering potential coal dust emissions associated with train wagons carrying coal from the Maxwell Project.

The Maxwell Project is predicted to comply with all applicable air quality criteria at privately-owned receptors (Todoroski Air Sciences, 2019). Changes in particulate matter concentrations at nearby equine or viticulture enterprises as a result of the Maxwell Project are predicted to be negligible (Todoroski Air Sciences, 2019).

Malabar manages air quality impacts under an approved Air Quality and Greenhouse Gas Management Plan (Malabar, 2022) that meets the requirements of Development Consent SSD 9526 and the Dust Management Plan required under Development Consent DA 106-04-00.

Potential air quality impacts associated with train movements are mitigated by Malabar through the following reasonable and feasible measures:

- the use of water sprays on conveyors and at transfer points to maintain adequate moisture levels in the product coal;
- maintaining a streamlined and consistent profiling of the coal surface within the rail wagons;
- minimising spillage and parasitic loading; and
- regular collection and cleaning of any coal spillage.

6.2.3 Impact Assessment Review

The Modification would not seek to increase the currently approved maximum annual transportation limits or maximum train movements. However, compared to the approved Antiene Rail Spur, the Modification would result in an increase in the duration of dust emissions until 2047.

Dust generating activities for the extended period of time would continue to be consistent with approved train movements and would continue to comply with the Dust Management Plan required under Development Consent DA 106-04-00.

Todoroski Air Sciences (2019) determined that dust emissions from Maxwell Project train wagons are not anticipated to generate any significant impact based on a number of different studies that have investigated rail dust emissions (Appendix B).

Studies that have investigated dust emissions in relation to product coal being transported via rail are outlined in Appendix B and are summarised below:

- Connell Hatch (2008) found there is a minimal risk of adverse impact on human health based on monitoring and modelling of the emissions and impacts of coal train wagons.
- Ryan and Wand (2014) found monitoring data for trains travelling on the Hunter Valley network indicated no significant difference in the particulate matter measurements for passing freight and coal trains (loaded and unloaded).

- Further analysis of data on the Hunter Valley network in the form of the number of locomotives on each passing train and precipitation data suggests that the number of locomotives on each passing train has little influence on particulate levels (Malecki and Ryan, 2015).
- A review of studies presenting modelling predictions for coal trains travelling in the Hunter Valley region predicted relatively small dust impacts associated with rail transport (Todoroski Air Science, 2017a; Todoroski Air Science 2017b).

Based on the conclusions of Todoroski Air Sciences (2019) for the Maxwell Project EIS, the transport of coal on the Antiene Rail Spur is unlikely to result in any adverse air quality impacts (Appendix B).

6.2.4 Mitigation Measures

Malabar would continue to implement mitigation measures to control dust emissions from rail wagons (Section 6.2.2).

Potential impacts to air quality associated with the Antiene Rail Spur would continue to be managed under the Air Quality and Greenhouse Gas Management Plan required under Condition B23 of Development Consent SSD 9526 and Condition 5.1 of Development Consent DA 106-04-00.

No specific additional mitigation measures are considered to be required as a result of the Modification.

6.3 ROAD TRANSPORT

6.3.1 Methodology

The *Maxwell Project Road Transport Assessment* (The Transport Planning Partnership [TTPP], 2019) undertaken for the Maxwell Project EIS included an assessment of road transport impacts associated with the Maxwell Project on the Antiene Rail Spur and is provided in Appendix C.

The *Maxwell Project Road Transport Assessment* (TTPP, 2019) was prepared in accordance with the *Guide to Traffic Generating Development* (Roads and Traffic Authority [RTA], 2002), with reference to the relevant Austroads guides, RMS Supplements to the Austroads guides and the Australian Standards (Appendix C).

6.3.2 Background

The *Maxwell Project Road Transport Assessment* (TTPP, 2019) included characterising the existing and potential road users of the Maxwell Project and potential implications of road transport issues related to the Antiene Rail Spur.

The Antiene Rail Spur provides rail access to the Maxwell Project and Mt Arthur Mine and crosses the Antiene Railway Station Road (Plate 6-1) at a level crossing approximately 40 metres (m) from the Antiene Railway Station Road and Hebden Road intersection. This is the only level crossing on the Antiene Rail Spur.

Antiene Railway Station Road is a local road providing limited access to local properties only, with no through traffic function.

Thomas Mitchell Drive crosses the Antiene Rail Spur at rail over road crossing at two locations approximately 3 kilometres (km) and 4.8 km west of New England Highway.

The Maxwell Project Site Access Road also crosses the Antiene Rail Spur at a road over rail crossing 120 m from the Site Access Road and Thomas Mitchell Drive intersection.



Plate 6-1 – Level Crossing on Antiene Railway Station Road

Source: TTPP.

6.3.3 Impact Assessment Review

The Modification would not seek to change the currently approved rail movement of coal from the Maxwell Project described in Development Consent DA 106-04-00.

Observations included in the *Maxwell Project Road Transport Assessment* (TTPP, 2019) indicate that traffic volumes on Antiene Railway Station Road are low, such that the movement of trains on the Antiene Rail Spur would result in very low likelihood that vehicles on that road would be delayed by a train (Appendix C).

6.3.4 Mitigation Measures

No specific additional mitigation measures in relation to the Antiene Railway Station Road level crossing are considered to be required.

6.4 SOCIAL

6.4.1 Methodology

The *Maxwell Project Social Impact Assessment* (the SIA) (Elliott Whiteing Pty Ltd [Elliott Whiteing], 2019) considered the potential impacts of the Maxwell Project and the continued use of the Antiene Rail Spur on employment, population, community infrastructure demand and social values (Appendix D).

The SIA (Elliott Whiteing, 2019) was prepared in accordance with the *Social impact assessment guideline for State significant mining, petroleum production and extractive industry development* (DPE, 2017).

This Modification Report has been prepared in consideration of the *State Significant Development Guidelines* (DPIE, 2021a), in particular *Appendix E – Preparing a Modification Report*.

Other relevant State Significant Development Guidelines that have been considered in the preparation of this Modification Report include:

- *Undertaking Engagement Guidelines for State Significant Projects* (DPIE, 2021b) (Section 5);
- *Cumulative Impact Assessment Guidelines for State Significant Projects* (DPIE, 2021c) (Section 6); and
- *Social Impact Assessment Guideline for State Significant Projects* (DPIE, 2021d).

6.4.2 Background

The SIA (Elliott Whiteing, 2019) defined the Muswellbrook LGA, where the Maxwell Project is located, and the adjoining Singleton LGA as the primary area of social influence for the Maxwell Project (also referred to as the Project region), as this is where the majority of the Maxwell Project operational workforce are predicted to reside.

The SIA (Elliott Whiteing, 2019) provided a detailed description of the area of social influence and focused on nearby suburbs that may experience benefits along with social impacts as a result of the Maxwell Project, including the suburbs of Muswellbrook, Singleton, Jerrys Plains and Denman.

The SIA (Elliott Whiteing, 2019) was informed by consultation undertaken by Malabar during the preparation of the Maxwell Project EIS and further consultation has been undertaken for the Modification (Section 5).

The consultation undertaken for the Maxwell Project, a detailed description of the social baseline and key community concerns regarding the potential impacts and benefits of the Maxwell Project identified during consultation are provided in the SIA (Elliott Whiteing, 2019) (Appendix D).

6.4.3 Impact Assessment Review

The Modification would not change the following components and matters that may have associated potential social benefits and impacts:

- workforce;
- hours of operation; and
- visual amenity impacts.

As such, the Modification would not materially change the potential impacts of the Maxwell Project identified in the SIA (Elliott Whiteing, 2019) and, therefore, would not result in any additional social impacts to:

- way of life;
- community;
- accessibility;
- culture;
- health and wellbeing;
- surroundings;
- livelihoods; or
- decision-making systems.

The Antiene Rail Spur services the Maxwell Project and the existing Mt Arthur Mine to transport coal to the Port of Newcastle via the Main Northern Railway Line.

The rail section from Maitland to Armidale, which connects with the Antiene Rail Spur and Muswellbrook, is predominantly used to transport coal from the Hunter Valley, however the rail line also supports a small number of passenger trains.

Consultation undertaken for the Maxwell Project EIS with Muswellbrook Shire Council identified concerns amongst some stakeholders that projected cumulative demands on the Main Northern Railway Line may not be sustainable and may crowd out the limited passenger services available on the line (Appendix D).

On 14 December 2018, the ARTC provided a letter noting that the Maxwell Project would form part of the Hunter Valley Corridor Capacity Strategy for 2019 and, at the time of writing, the network capacity was expected to be available to meet the requirements of the Maxwell Project. The Hunter Valley Corridor Capacity Strategy for 2022 (ARTC, 2022) notes that passenger services have priority on the Main Northern Railway Line.

The potential cumulative impacts of the Maxwell Project and other potentially relevant approved and proposed developments within the Muswellbrook and Singleton LGAs have been considered in the SIA (Elliott Whiteing, 2019).

Key findings of the cumulative assessment included (Elliott Whiteing, 2019):

- cumulative housing requirements may result in rental housing shortages until supply and demand are balanced; and
- coincidence of construction and operation periods for different developments may result in skilled labour shortages, which would in turn impact the Maxwell Project's local/non-local workforce profile and associated demand for housing and services.

As the Modification would not change the approved workforce, it is not expected that the Antiene Rail Spur (as modified) and Maxwell Project would have any additional cumulative impacts.

6.4.4 Mitigation Measures

Malabar would continue to work with local government and the local community to minimise potential social impacts of and the Maxwell Project and continued use of the Antiene Rail Spur and maximise potential opportunities. Malabar would also maintain the commitments that would underpin the social impact management strategies for the Maxwell Project as described in Section 6.17 of the Maxwell Project EIS (Malabar, 2019a).

Potential social impacts associated with the Maxwell Project would be managed under the Social Impact Management Plan required under Condition B94 of Development Consent SSD 9526.

No additional social management measures are considered to be required for the Antiene Rail Spur.

6.5 ECONOMIC CONSIDERATIONS

The potential for the Maxwell Project to create increased local employment options and support local businesses was a key benefit identified in local community and other stakeholder engagement for the Maxwell Project EIS.

Annual export sales of product coal from the Maxwell Project were estimated in the vicinity of \$500 million to \$700 million per annum, on average, based on 2019 coal price forecasts².

The NSW Division of Resources and Geoscience (2019) estimated that the Maxwell Project would generate approximately \$955 million in royalties (undiscounted) based on coal price forecasts of approximately US\$140 per tonne for coking coal and US\$70 per tonne for thermal coal.

The *Maxwell Project Economic Assessment* (DAE, 2019) undertaken for the Maxwell Project EIS concluded the Maxwell Project would result in a total net benefit to the NSW economy of over \$1 billion in net present value terms (2019), which:

- included the estimated costs for environmental externalities and internalisation of environmental management costs by Malabar; and
- conservatively excluded any indirect economic impacts associated with benefits to workers or suppliers.

Coal prices are currently much higher than the forecasts used to derive the Maxwell Project benefits (including royalties). Accordingly, benefits arising from the Maxwell Project are expected to be greater than previous estimates.

The Modification would allow the Maxwell Project to continue providing efficient access of product coal to national and international markets and therefore, would allow the benefits of the Maxwell Project to the community and local governments to be realised. The socio-economic benefits of the Maxwell Project include:

- generation of approximately 350 new direct, long-term jobs for the region, with consequent social benefits at family and community levels;
- development of local workforce capacity with Malabar's proposed focus on local employment and the recruitment of personnel from outside of the underground mining sector (including women and Indigenous people);
- indirect (flow-on) employment as the result of increased wages and participation of regional businesses in the supply chain;
- continued support for the vitality and growth of local and regional businesses (e.g. through the provision of non-labour inputs such as maintenance supplies and professional services);
- support and funding contributions to local community programs and groups during the life of the Project;
- support for local community objectives and aspirations (including objectives to support job growth and diversify from reliance on thermal coal production);
- positive economic flow-on effects associated with the use of the Hunter Valley coal rail network and coal export terminals at the Port of Newcastle; and
- certainty over future development plans at the Maxwell Project.

6.6 OTHER ENVIRONMENTAL CONSIDERATIONS

Consideration of the other environmental matters for the Modification is provided in Table 5.

² As adopted by Deloitte Access Economics (DAE) (DAE, 2019) and Malabar.

**Table 5
Environmental Consideration of Other Environmental Matters**

Environmental Aspect	Summary of Key Environmental Review Conclusions
Water Resources	The Modification would not change existing site water management practices as outlined in the approved Water Management Plan. Therefore, the Modification would not result in any change to the potential impact to water resources and water quality.
Land Resources and Agricultural	The Modification would not result in additional land clearance and, therefore, there would be no change to the potential impacts to agriculture.
Biodiversity	The Modification would not result in any change to the potential impacts to flora and fauna.
Aquatic Ecology	The Modification would not result in any change to the potential impacts to water resources and water quality and, therefore, there would be no change to the potential impacts to aquatic ecology.
Heritage	No additional surface disturbance is proposed for the Modification. As such, no items of heritage would be directly disturbed as a result of the Modification. The Modification would also result in no change to the indirect and cumulative impacts on any heritage places.
Visual Amenity	The Modification would not result in a modified landform or any additional infrastructure. The Modification would continue to management light emissions in accordance with Condition 5.2 of Development Consent DA 106-04-00.
Greenhouse Gas Emissions	The Modification would result in the transport of coal via rail for an additional 22 years (i.e. until 2047) and associated greenhouse gas emissions (e.g. from diesel locomotives). There would be no increase in the maximum annual greenhouse gas emissions compared to the approved Antiene Rail Spur as there would be no change to the maximum annual transportation limits or maximum train movements. Annual greenhouse gas emissions would be expected to trend downwards over time with improved efficiencies (e.g. through longer trains and more advanced train management systems).

7 JUSTIFICATION OF THE MODIFICATION

This section provides a justification for the Modification and conclusion for the Modification Report.

As part of the justification of the Modification, consideration has been given to:

- the engagement undertaken for the Maxwell Project EIS and the Modification (Section 7.1);
- key environmental assessment outcomes including the potential impacts of the Modification (Section 7.2);
- the relevant planning and policy objectives (Section 7.3); and
- the benefits of the Modification (Section 7.4).

7.1 STAKEHOLDER ENGAGEMENT OVERVIEW

Malabar undertook extensive consultation for the Maxwell Project EIS as well as consulting with a number of stakeholders during the development of the Modification including:

- government agencies;
- the CCCs; and
- neighbouring landholders and tenement holders.

The outcomes of engagement with these stakeholders have informed the development of the scope of the Modification and the preparation of this Modification Report.

7.2 CONSOLIDATED SUMMARY OF ASSESSMENT OF IMPACTS

Malabar will operate the Antiene Rail Spur in accordance with existing criteria, performance measures and limits in Development Consent DA 106-04-00 and the existing environmental management framework.

Malabar has undertaken a review of the potential environmental impacts of the Modification to identify key potential environmental issues requiring assessment. The key environmental issues identified are summarised in Table 6.

7.3 CONSIDERATION OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

7.3.1 Objects of the Environmental Planning and Assessment Act 1979

Section 1.3 of the EP&A Act describes the objects of the EP&A Act as follows:

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (d) *to promote the delivery and maintenance of affordable housing,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) *to promote good design and amenity of the built environment,*
- (h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The Modification is considered to be generally consistent with the objects of the EP&A Act, because it is a Modification that:

- allows for the ongoing orderly and economic use of land as the Modification facilitates the continued use of existing infrastructure; and
- is an application under Section 4.55(2) of the EP&A Act that would be determined by the NSW Government.

Table 6
Key Outcomes of Environmental Review for the Modified Antiene Rail Spur

Environmental Aspect	Summary of Key Environmental Review Conclusions
Transport Noise	There would be no changes to existing train movement limits associated with the Antiene Rail Spur (DA 106-04-00). Rail movements on the Antiene Rail Spur would comply with the noise limits in Development Consent DA 106-04-00 and the relevant criteria in the RING. The existing Noise and Blasting Management Plan would continue to be implemented.
Air Quality	The Modification is not anticipated to generate any significant impact to the air quality from the Maxwell Project train wagons. The existing Air Quality and Greenhouse Gas Management Plan would continue to be implemented.
Level Crossings	The only level crossing on the Antiene Rail Spur is on Antiene Railway Station Road, which is a local road providing limited access to local properties only, with no through traffic function. The movement of trains on the Antiene Rail Spur would result in very low likelihood that vehicles on Antiene Railway Station Road would be delayed by a train.
Social and Economic	The Modification would allow for the significant local, regional and State economic and social opportunities of the Maxwell Project to be realised in the long-term.
Other Aspects	The Modification would result in negligible or no change in potential impacts on other environmental, social and economic considerations.

7.3.2 Evaluation under Section 4.15(1) of the Environmental Planning and Assessment Act 1979

In evaluating the Modification, under section 4.15(1) of the EP&A Act, the consent authority is required to take into consideration a range of matters as they are of relevance to the subject of the application, including:

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

- (a) *the provisions of—*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iii a) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

...

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

While this is a requirement of the consent authority, this Modification Report has been prepared to generally address the requirements of section 4.15(1) of the EP&A Act to assist the consent authority, as follows:

- Consideration of the requirements of relevant environmental planning instruments is provided in Section 4.3.
- Clause 11 of the *State Environmental Planning Policy (State and Regional Development) 2011* states that development control plans do not apply to SSDs.
- Malabar has an existing planning agreement with the Muswellbrook Shire Council for the Maxwell Project.

- This Modification Report has been prepared in consideration of the prescribed matters in the EP&A Regulation.
- A description of the existing environment, an assessment of the potential environmental impacts associated with the Modification, and a description of the potential measures to avoid, mitigate, rehabilitate, remediate, monitor and/or offset the potential impacts of the Modification are described in Section 6 and Appendices A to D.
- The suitability of the site for the Antiene Rail Spur Project would not change for the Modification (i.e. the Modification is wholly located within the approved Development Application Area and the Antiene Rail Spur, as modified, would remain substantially the same).
- Consideration of whether, on evaluation, the Modification is considered to be in the public interest is provided in Sections 7.4 and 7.5.

7.4 JUSTIFICATION FOR THE MODIFICATION

The Antiene Rail Spur will operate in accordance with Development Consent DA 106-04-00, which was granted under Part 4 of the EP&A Act on 2 November 2000.

The Modification is located partially within and to the north of the Maxwell Project and would comprise an extension of operating life to align with the approved operating life of the Maxwell Project (i.e. until 2047). The Modification would not change materially change the scale or nature of the Antiene Rail Spur.

Approval of the Modification is considered to be justified given:

- the Modification is 'substantially the same';
- the Modification would facilitate the Maxwell Project to deliver significant local, regional and State economic and social opportunities;
- the Modification is consistent with the *Hunter Regional Plan 2041* as it allows the Hunter region to maintain existing freight transport networks that would minimise negative impacts of freight movements on urban amenity for the life of the Maxwell Project;
- the Modification would continue to provide efficient access of product coal to national and international markets; and
- the Modification would facilitate local and regional employment.

The Maxwell Project would generate a significant net benefit to the State of NSW (Section 6.5). The Modification would allow the full benefits of the Maxwell Project to the community and local governments to be realised.

As such, the approval of the Modification is considered to be justified.

7.5 CONCLUSION

The modified Antiene Rail Spur would be substantially the same as the approved Antiene Rail Spur.

The Antiene Rail Spur (as modified) would continue to comply with existing criteria, performance measures and limits in Development Consent DA 106-04-00.

Malabar would also continue to operate the Antiene Rail Spur (as modified) in accordance with the existing management and monitoring regime described in Development Consent DA 106-04-00 and the Maxwell Project EIS (Malabar, 2019a).

In weighing up the main environmental impacts (costs and benefits) assessed and described in this Modification Report, the Modification is, on balance, considered to be in the public interest of the State of NSW.

8 REFERENCES

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- Todoroski Air Sciences (2019) *Maxwell Project Air Quality and Greenhouse Gas Assessment*.
- Wilkinson Murray (2019) *Maxwell Project Noise Impact Assessment*.

**ATTACHMENT 1
DETAILED STATUTORY COMPLIANCE RECONCILIATION TABLE**

**Table A2-1
Summary Statutory Compliance for State Legislation**

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Maxwell Project EIS	Relevant Section in Modification Report	Modified Project Compliance Status
<i>Environmental Planning and Assessment Act 1979 (EP&A Act)</i>				
section 1.3	Relevant objects of the EP&A Act: <ul style="list-style-type: none"> • Promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources. • Facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment. • Promote the orderly and economic use and development of land. • Protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats. • Promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage). • Promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State. • Provide increased opportunity for community participation in environmental planning and assessment. 	Section 4.3 and Attachment 7 of the Maxwell Project EIS	Section 7.3	✓
section 4.15	Relevant environmental planning instruments: <ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Planning System) 2021.</i> • <i>State Environmental Planning Policy (SEPP) Resilience and Hazards</i> (Resilience and Hazards SEPP). • <i>State Environmental Planning Policy (Resources and Energy) 2021</i> (Resources and Energy SEPP). • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (Transport and Infrastructure SEPP). • <i>Muswellbrook Local Environmental Plan 2009</i> (Muswellbrook LEP). • Any planning agreement or draft planning agreement that a developer has entered into under section 7.4 of the EP&A Act. • The EP&A Regulation. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality; the suitability of the site for the development; any submissions made in accordance with the EP&A Act or the EP&A Regulation; the public interest.	Section 4.3 and Attachment 7 of the Maxwell Project EIS	See below.	✓

Table A2-1 (Continued)
Summary Statutory Compliance for State Legislation

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Maxwell Project EIS	Relevant Section in Modification Report	Modified Project Compliance Status
<i>EP&A Regulation</i>				
clause 115	An application for the modification of a development consent under sections 4.55(1), (1A) or (2) or 4.56(1) of the EP&A Act must contain information outlined in clause 115(1) and must satisfy clause 115(1A). Clause 115(2) also provides the notification requirements of clause 49 of the EP&A Regulation apply.	N/A	Section 1	✓
<i>Biodiversity Conservation Act 2016</i>				
section 7.14(2)	The consent authority is to take into consideration the likely impact of the proposed development on biodiversity values as assessed in the BDAR.	N/A	Section 4.2	✓
section 7.16(3)	If the consent authority is of the opinion that the Project is likely to have serious and irreversible impacts on biodiversity values, the consent authority is required to: <ul style="list-style-type: none"> take those impacts into consideration; and determine whether there are any additional and appropriate measures that will minimise those impacts if consent or approval is to be granted. 	N/A	Section 4.2	✓
<i>Protection of the Environment Operations Act 1997 (PoEO Act)</i>				
section 43	The Maxwell Project currently operates under Environmental Protection Licence (EPL) 1323, granted under the PoEO Act, which allows for coal works and mining for coal as scheduled activities. The EPL contains conditions that relate to emission and discharge limits, environmental monitoring and reporting. It is not anticipated that any changes to EPL 1323 would be required as a result of the Modification.	Sections 4.3.4 and 4.5 of the Maxwell Project EIS	No change.	✓
<i>Water Management Act 2000</i>				
sections 89, 90 and 91	Malabar holds appropriate licences under the <i>Water Management Act 2000</i> for the existing activities at the Maxwell Project and along the Antiene Rail Spur. Appropriate licences under the <i>Water Management Act 2000</i> would continue to be held and where necessary obtained via purchase or trade according to the operating rules of the water market.	-	No change.	✓
<i>National Parks and Wildlife Act 1974 (NPW Act)</i>				
section 90	An Aboriginal cultural heritage impact permit under section 90 of the NPW Act is not required for the Modification as there is no additional surface disturbance proposed.	-	No change.	✓
<i>Heritage Act 1977</i>				
section 139	No items of historic heritage would be directly disturbed at the Antiene Rail Spur as a result of the Modification as there would be no additional surface development beyond the approved areas.	-	No change.	✓

Table A2-1 (Continued)
Summary Statutory Compliance for State Legislation

Relevant Legislation or Instrument	Mandatory Consideration	Relevant Section in the Maxwell Project EIS	Relevant Section in Modification Report	Modified Project Compliance Status
Resources and Energy SEPP				
section 2.19	<p>Before determining an application for development in the vicinity of mining, petroleum or extractive industry, the consent authority must (among other things) consider whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery.</p> <p>The Antiene Rail Spur is in the vicinity of the Maxwell Project and Mt Arthur Mine. The Antiene Rail Spur incorporating the Modification is not expected to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials. Further, the Antiene Rail Spur as modified would facilitate the recovery of resources from the Maxwell Project.</p> <p>As such, no additional measures to avoid or minimise incompatibility with existing and approved surrounding land uses are considered to be required.</p>	N/A	Table A2-1 .	✓
Resilience and Hazards SEPP				
section 4.6	<p>A consent authority must consider whether the land is contaminated and be satisfied that, if the land is contaminated, the land is suitable in its contaminated state (or will be suitable after remediation) for the purpose of the development.</p> <p>There is no change to land use proposed by the Modification. As such, the land would remain suitable for the purpose of the development.</p>	N/A	Table A2-1.	✓
Transport and Infrastructure SEPP				
section 2.48(2)	<p>Before determining a development application (or an application for modification of a consent) for development to which this clause applies the consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks and take into consideration any response to the notice that is received within 21 days after the notice is given.</p> <p>Notification of the electricity supply authority is required for the Modification.</p>	N/A	Table A2-1.	✓
Muswellbrook LEP				
clause 2.3	<p>A consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within that zone.</p>	N/A	Section 4.3.	✓